



ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

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~ MEMORANDUM ~

TO: Board of County Commissioners

FROM: David L. Wechner, Director, Planning and Community Development

DATE: December 17, 2013

SUBJECT: Disclosure Statements in ICC 9.44.050 and ICC 14.01B.100

The Board of County Commissioners recently requested Planning / Community Development provide clarification of disclosure statements currently required in the Island County Code. This clarification will hold value for the community.

Chp. 9.44 of the County Code is titled the Airport and Aircraft Operations Noise Disclosure Ordinance, adopted as part of Title Nine, the Public Peace, Safety and Morals portion of the County Code, and includes a map of the County titled the 'Airport Environs Map'. This chapter of the ICC contains a noise disclosure statement, required of persons offering for sale, lease or transfer properties within the mapped area in Island County. Chp. 9.44 was adopted by Ordinance C-32-92 in 1992, its disclosure statement reads:

"No person shall sell, lease, or offer for sale or lease any property within an Airport Environs Mapped Impacted Area unless the prospective buyer or lessee has been given notice substantially as follows:

TO: The property at _____ is located within (the) Airport Environs mapped impact area. There are currently 5 (five) active airport facilities in Island County. The Oak Harbor Airpark, the South Whidbey Airpark, and the Camano Airpark are general aviation facilities and are identified on the attached map. Ault Field and OLF Coupeville are tactical military jet aircraft facilities and are also identified on the attached map. Both Ault Field and OLF Coupeville are used for Field Carrier Landing Practice (FCLP) purposes. Practice sessions are routinely scheduled during day and night periods.

Property in the vicinity of Ault Field and OLF Coupeville will routinely experience significant jet aircraft noise. As a result airport noise zones have been identified in the immediate area of Ault Field and OLF Coupeville. Jet aircraft noise is not, however, confined to the boundaries of these zones.

Additionally, the noise generated by the single flyover of a military jet may exceed the average noise level depicted by the airport noise zones and may exceed 100 (one-hundred) dba.

More specific information regarding airport operation and aircraft noise can be obtained by calling the Community Planning Liaison Office at NAS Whidbey Island and the Island County Planning and Community Development Department."

Chp. 14.01B of the Island County Code is titled the Noise Level Reduction Ordinance - it includes a map as well, with 'noise level zones 2 and 3' corresponding more specifically to different prospective sound levels. This map is different than the Chp. 9.44 map (i.e. excluding areas near the South Whidbey Air Park and Camano Air Park facilities, and excluding certain areas on Whidbey Island north of Greenbank that are included in Chp. 9.44).

Chp. 14.01B also contains specific noise-*reduction* standards for new construction in addition to the adopted building code. The County implements these construction standards through issuance of building permits within the 2 and 3 noise zones.

Chp. 14.01B was adopted by Ordinance PLG-054-93 in 1993; it was further recognized by Resolution PLG-007-94, acknowledging the effective date of the Ordinance per a letter of approval by the State Building Code Council. Chp. 14.01B was further amended by Ordinance C-59-02, adopted August 12, 2002 to blend Oak Harbor and Island County Noise Attenuation Ordinances. The disclosure statement of Section 14.01B.070 in the 1993 ordinance was relocated to section 14.01B.100; the disclosure itself remained unchanged.

The Chp. 14.01B disclosure statement reads:

“No person shall sell, lease, or offer for sale or lease any property within an Airport Noise Zone 2 or 3 unless the prospective buyer or lessee has been given notice substantially as follows:

To: The Property at _____ is located within Airport Noise Zone 2 or 3 impacted area. Persons on the premises may be exposed to a significant noise level as a result of airport operations. Island County has placed certain restrictions of construction of property within airport noise zones. Before purchasing or leasing the above property, you should consult the Island County Noise Level Reduction Ordinance to determine the restrictions which have been placed on the subject property, if any.”

Both Chapters 9.44 and 14.01B are currently in effect, and contain disclosures for prospective owners or lessees— both are applicable to the sale, lease, transfer (or offer thereof) regarding properties in Island County within areas designated on the respective maps. Where the maps overlap (e.g. Noise Zone 2 and 3), both disclosure statements are required. As the County does not participate in the offer or actual sale, lease or transfer of land, it is the responsibility of property owners or their agents to provide the disclosures.

The Limitation of Liability statement contained in both Chp. 9.44 and Chp. 14.01B clearly states the obligation to comply with the provisions of these chapters lies with the property owner, builder and their agents. The County does not enforce the disclosure statement requirements, nor has the ability to enforce the disclosure statement requirements. Both Chapters make clear that the obligation to comply with the provisions of the ordinances are “upon the property owner and their agents” and that “[A]cts or omissions to act by Island County, its officials or employees under this chapter shall not create any liability on the part of Island County or its officials or employees.”

It has been brought to the County’s attention that the Northwest Multiple Listing Service copyrighted a document in 2001 titled ‘Form 22W’, apparently used by some real estate agents in Island County as a noise disclosure statement. This Department does not have involvement in the daily activity of the real estate market, nor is this Department aware of what disclosures are being provided by the real estate community in real estate transactions; however, it appears the copy of “Form 22W” provided to this office does *not* contain both required disclosure statements, nor cite applicable County Code.

Attachments:

Ord. C-32-92, adopted May 11, 1992
Ord. PLG-054-93, adopted October 11, 1993
Res. PLG-007-94, adopted April 18, 1992
Ord. C-59-02, adopted August 12, 2002